



1560/4370.

The KING }
Against
Tucker ; }

The CASE of
William Hall Esq;

The KING

Against

Reginald Tucker.

The Case of William Hall Esq;

Upon a Writ of Error to Reverse the Judgment of the Court of King's-Bench for the Reversing the Attainder of the Defendant Tucker.

JOHN TUCKER Deceased had two Sons, *Andrew* a Lunatick, and the now Defendant *Reginald*, after the Father's Decease *Reginald* got a Commission for the Custody of his Elder Brother and his Estate, and for divers years concealed him in a Mad-House, and acted as Owner and Proprietor of the whole Estate in his own Right, part whereof was Lease-Hold for Lives, and part Inheritance.

1681. The Defendant surrendered the Lease-Hold Estate, and took a New Lease thereof in his own Name, and then Mortgaged the same to *Alice Hinton* of *Hackney* Widow for One Thousand Pounds, she not knowing of *Andrew Tucker's* Title.

1683. The Defendant, though Younger Brother, and his Elder Brother alive, made a Mortgage of the Estate of Inheritance by the Name of Son and Heir of his Father, to Mr. *Kett*, and others, for Five Hundred Pounds.

1685. Mrs. *Hinton*, being by Age and Sicknefs unable to manage the Estate lying in *Somerset-shire*, importuned Mr. *Hall* being her Relation, to take an Assignment of her Mortgage, and she on payment of her Money assigned to him and Mr. *Hall* entred on the Lease-Hold-Estate, and Sowed the Land, having never heard of *Andrew Tucker*; after which, one *Grove* a Kinsman of the Defendant getting a new Commission of Lunacy and the Custody of *Andrew Tucker*, entred upon Mr. *Hall*, and reaped and carried away the Crop of Corn which he had sown to the value of Eighty Five Pounds, but soon after the Lunatick dyed.

March 21. The Defendant *Reginald* Brother and Heir of *Andrew* was Attainted of High Treason.

1686.

April 23. Sir *Theophilus Oglethorpe* got a Grant from the Crown of the Defendant's Estate, having procured his Reprieve, and paid Ten Pounds to carry it to *Wells*.

1687.

1688. Mr. *Hall* having been at great loss by *Andrew Tucker's* Title, and being brought into danger of losing most of his Money, and put to great trouble and expence by the King's Title, and by several Suits both in Law and Equity, his Debt and Interest being near the value of the Lease-Hold, and finding that Mr. *Kett* had spent above two Hundred Pounds in defence of his Mortgage against the Title of the King and the Lunatick, for his better security, and to save further expence, and prevent an account for the mean profits, was necessitated to buy Sir *Theophilus Oglethorpe's* Title to both the Estates, and paid him for the same six hundred Guineas, and paid Mr. *Kett* Eight Hundred Pounds, and paid sixty four pounds for changing the Life of the Defendant's Wife in the Lease-Hold-Estate, she having before the Purchase committed Felony by Marrying a second Husband, and thereby her Life in the Estate in danger to be lost, all which several summs were the full value of both Estates.

1689. *Reginald* the Defendant Petitioned the House of Commons for leave to bring in a Bill to reverse his Attainder, but the Committee, to whom the Petition was referred, hearing Mr. *Hall's* Case, who oppos'd it only on account of his said Purchase, and Examining the Defendant if he was guilty of the Treason, did not Report the same to the House, the Defendant's design being to avoid Payment of Mr. *Hall's* Money, which he hath often offered to accept with his Interest, and to account for the mean Profits, and to Release the Estate, and is now willing to do after nine years trouble and vexation, and often Soliciting to save the Defendant's life, before he heard of *Andrew Tucker*.

1692. The Defendant brought a Writ of Error in the King's-Bench to Reverse the said Attainder, and in *Easter Term* last the same was Revers'd, only because these words *Contra ligeantie sue debitum*, are not in the Conclusion of the Indictment.

To which it is answered,

That the Indictment (amongst other things) sets forth that the Defendant *Reginald*, and one *Thomas Place*, *timorem Dei in cordibus suis non habentes, nec debitum Ligeantiae suae ponderantes, dilectionem ac veram & debitam obedientiam quas veri & fideles subditi Dom. Regis hujus Regni Angliae erga ipsum Regem gererent & de jure gereve tenentur penitus subtrahentes, ac machinantes & totis suis viribus intendentes pacem & tranquillitatem hujus Regni Angliae perturbare, &c. proditorie compassaverunt imaginati fuerunt & intendebant dictum Regem supremum & naturalem dominum suum non solum de Regali statu titulo & Regimine Regni sui Angliae, &c. deprivare & exhereditare verum etiam eundem Dominum Regem ad mortem & finalem destructionem adducere & Guerram Rebellionem & Insurrectionem contra Dominum Regem infra hoc Regnum, &c. Levare & Suscitare, & ad easdem proditorie conspirationes & imaginationes suas perimplendum & ad effectum redigendum, &c. iidem Reginald & Thomas, &c. contra dictum Dominum Regem Supremum verum naturalem & indubitatum Dominum suum cum magna multitudine gentium armatarum, &c. Guerram publicam contra dictum Dominum Regem proditorie, &c. levaverunt, &c. And concludes, contra pacem Domini Regis Coronam & Dignitatem suam, &c. ac contra formam Statuti, &c.*

I. And forasmuch as it appears in the body of the Indictment, That the King was the Defendant's Natural Lord, and by Consequence the Defendant his Subject, and the Fact alledged in the Indictment appearing to be High Treason, it is humbly submitted whether it be necessary in the end of the Indictment to repeat the Fact to have been done against the duty of his Allegiance, it being so fully and plainly express'd before in the body of the Indictment to be so.

II. This Indictment is according to a multitude of Presidents of Indictments for High Treason, which are without such Conclusion, the Records whereof are ready to be produced.

III. Many Persons have been Executed on the like Indictments.

IV. The Consequence of such Reversal may be very fatal, for that there are many Estates granted and enjoyed under those Attainders, and if for this Error the Judgment in this Case shall stand Reversed, then may also the Judgments upon those Attainders be for the same Error Reversed, and divers Grantees and Purchasers under the Title of those Attainders be defeated of their Estates, to their utter Ruine.

Wherefore it is humbly submitted to your Lordship's Consideration, and hoped that, for the Reasons aforesaid, the said Judgment of Reversal given in the Court of King's-Bench shall be Reversed by your Lordships.

Monday 21. Jan. 94: This Judgm^t of reversall given in y^e R^y Bench,
was affirmed in parliam^t